

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CALVIN MOSLEY, JR.,

Petitioner,

vs.

WALTER DINWIDDIE, Warden,

Respondent.

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Case No. CIV-06-72-R

ORDER

This matter is before the Court for de novo review of the Report and Recommendation entered by United States Magistrate Judge Bana Roberts on February 23, 2006. The Report and Recommendation recommended that the Petition be dismissed without prejudice due to the Petitioner's failure to comply with the Magistrate Judge's order of February 1, 2006. In the Report and Recommendation, the Magistrate Judge advised the Petitioner that any objection to the Report and Recommendation must be filed by March 15, 2006, and further advised the Petitioner that a failure to make a timely objection would waive his right to appellate review.

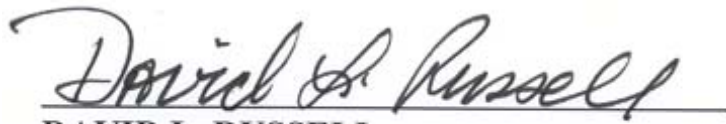
The Court has granted the Petitioner two extension of time in which to file a written objection. (Document No. 11, granting the Petitioner until April 1, 2006, and Document No. 13, granting the Petitioner until May 1, 2006 in which to file his objection). The Petitioner has neither filed a written objection, nor sought a further extension of time in which to do so. *Moore v. United States*, 950 F. 2d 656 (10th Cir. 1991).

On February 1, 2006, the Magistrate Judge entered an order noting that the Petition did not comply with the requirements of Rule 8 (a), Fed. R. Civ. Pro., in that it did not include a short and plain statement of the claims for which he seeks relief. Instead, Grounds One through Four of the

petition stated simply: “Will be presented in brief.” The Magistrate Judge ordered the Petitioner to file an amended petition in compliance with Rule 8 (a), Fed. R. Civ. Pro., on or before February 20, 2006. To date, the Petitioner has not filed an amended petition. The Court agrees that the original Petition does not include a short and plain statement of the Petitioner’s claims as required by Rule 8 (a). Upon de novo review, the Court agrees with the Magistrate Judge’s finding that the Petition should be dismissed without prejudice for failure to comply with Rule 8 (a), Fed. R. Civ. Pro.

The Magistrate Judge’s Report and Recommendation are hereby ADOPTED in full. The Petition is hereby DISMISSED without prejudice to refileing.

IT IS SO ORDERED this 11th day of May, 2006.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE